

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MICHELLE L. MOLINA,

Plaintiff,

Case No: 1:14-cv-648

v.

HON. JANET T. NEFF

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

OPINION AND ORDER

Plaintiff seeks judicial review of a decision of the Commissioner of the Social Security Administration. 42 U.S.C. § 405(g). The matter was referred to the Magistrate Judge, who issued a Report and Recommendation (R & R, Dkt 18), recommending that this Court reverse the Commissioner's decision to deny Plaintiff's claim for Disability Insurance Benefits (DIB) and Supplemental Security Income (SSI) under Titles II and XVI of the Social Security Act, and remand the matter for further factual findings pursuant to sentence four of 42 U.S.C. § 405(g). The matter is presently before the Court on Defendant's Objection to the Report and Recommendation (Dkt 19). Defendant does not challenge the Magistrate Judge's ultimate conclusion that remand is appropriate. Defendant only objects that the R & R incorrectly regards Carol Sunday-Rasche, a limited-license psychologist ("LLP"), as an "acceptable medical source" under the Commissioner's regulations.

In accordance with 28 U.S.C. § 636(b)(1) and FED. R. CIV. P. 72(b)(3), the Court has performed de novo consideration of those portions of the R & R to which objections have been made. The Court denies the Objection and enters this Opinion and Order.

Defendant requests that the Court reject the Magistrate Judge's finding that Sunday-Rasche was an "acceptable medical source," whose opinions were entitled to deference under the treating source rule. Defendant argues that the R & R fails to distinguish between "licensed" psychologists and "limited license" psychologists, and that the R & R's terse analysis conflicts with the state's licensing guidelines.

Defendant's argument was raised in its brief on appeal (Dkt 16 at Page ID# 1241-42), and was rejected by the Magistrate Judge. Defendant concedes that there is conflicting authority on this issue, but argues that Michigan's licensing authority and the Sixth Circuit cases cited by Defendant were not taken into consideration in the contrary decisions from this District relied on by the Magistrate Judge (Obj. at Page ID# 1269, citing *Malewitz v. Comm'r of Soc. Sec.*, No. 1:12-cv-1285, 2014 WL 769629, at *4 (W.D. Mich. Feb. 26, 2014), and *Bagley v. Comm'r of Soc. Sec.*, No. 1:12-cv-549, 2013 WL 5176765, at *10 (W.D. Mich. Sept. 16, 2013)). The Court is not persuaded that the authority cited by Defendant warrants rejecting the Magistrate Judge's conclusion that a limited license psychologist falls within the Social Security regulation providing that "licensed or certified psychologists" are considered acceptable medical sources (R & R at Page ID# 1263-64).

Accordingly, the Court will adopt the Magistrate Judge's Report and Recommendation as the Opinion of this Court and enter a Judgment consistent with this Opinion and Order. *See* FED. R. CIV. P. 58.

THEREFORE, IT IS ORDERED that Defendant's Objection (Dkt 19) is DENIED, and the Report and Recommendation (Dkt 18) is APPROVED and ADOPTED as the Opinion of the Court.

IT IS FURTHER ORDERED that the decision of the Commissioner of Social Security is REVERSED, and this matter is REMANDED for further factual findings pursuant to sentence four of 42 U.S.C. § 405(g).

A Judgment will be entered consistent with this Opinion and Order.

Dated: August 28, 2015

/s/ Janet T. Neff
JANET T. NEFF
United States District Judge